Some REMARKS upon GOVERNMENT,

And particularly upon the ESTABLISHMENT

Of the *Engliſh* MONARCHY

Relating to this preſent Juncture.

In Two LETTERS,

Written by, and to a Member of the Great CONVENTION, holden at *Weſtminſter* the 22d. of *January*, 168⅞.

SIR,

YOU have been highly Obliging in the frequent Accounts you ſent me of Affairs, in this Great and Extraordinary Revolution. I was once very diffident, and could ſcarcely conceive that the States of Holland, or Prince of Orange, could have attempted ſo Expenſive, and ſo Hazardous an Undertaking out of pure Generoſity, meerly for our Sakes, and for the Re-eſtabliſhment of our Laws and Religion, which did both equally Labour under the Preſſures of an Ill Adminiſtration, and ſeem'd to draw towards their laſt Periods. I knew the States had the Character of preferring their own, before any other Intereſt whatſoever, and the Prince had the Reputation of ſetting a due Value upon That which creates and proportions the Value of all things elſe. The Enterprize I look't upon, as very Expenſive in its Methods, and Uncertain in its Accompliſhment, which made me prone to believe that ſomething more lay couch't in this Vaſt Undertaking, than was expreſt in the Prince's Declaration; But ſince His arrival and coming to London, I

perceive He has, upon all Occasions, carry'd Himself with that wonderful Modesty, with such an unparalell'd Care and Tenderness of our Laws, Liberties, and Religion, and adheres so Resolutely to every Particular in His Declaration, that I cannot but esteem those to be His Noblest Trophies: And that which crowns those Successes which have crown'd His Generous and Pious Undertakings. His persisting to refer all to the Impartial Decisions of a Free Parliament, to Do and Establish such Matters, either in His, their Own, or the Kings behalf, as they shall think fit, even then, when Honor and Power spread their Perswasives before Him to do otherwise, is so great a Thing that it exceeds all His other Glories, and strikes the Beholders with nothing less than Amazement. I do more rejoyce than wonder at the Unanimous Concurrence which has hitherto been maintain'd between the Lords and Commons Assembled in Council, and indeed in the Wishes & Desires of all the People in General: It is what this Juncture does highly require, and what the Prince's Conduct does Oblige. We are very busie here in the Countrey in Electing Members for the Great Convention which is to sit in January, and I think the Lot will fall on me to serve for my Neighbouring Borough. You know I was never fond of Business or Trouble, and truly Age seems now to have sign'd my Writ of Ease. I also always cherisht some Cynical Notions, which made me very much slight and disregard the Honours and Flatulencies of a giddy World: But the thoughts of being one of the Great Planters of a Government which shall last for Ages, and perhaps till Time has run out its last Minutes, is no Ordinary thing. This thought alone has envigorated my Age and baffled my Philosophy, so that you may expect to see me in London about the 22d. of January next; and in the mean time, if you will favour me with your Thoughts and Opinion of Affairs, and what Understanding Men do think will, or ought to be the Issue and Consequence of this great Revolution, you will very considerably add to the many Kindnesses conferred upon

SIR,

Your assured Friend and humble Servant

A. B.

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The Answer.

YOurs (tho it bore an early Date, yet) came not to my hands till last *Friday*. I am very glad that my slender Services have prov'd upon any account acceptable to you. I never thought my self qualified to pry into the Recesses of Government, or the privacies of a King: What I acquainted you with, was little more than what was publickly discours'd of in Coffee-Houses: But indeed such was the Management of Affairs during our late King's Supremacy, That his most private Councels prov'd generally the next days Table-talk, for as they were shallow, so was the bottom of them discoverable to every common Eye. The *Prince* has perhaps, with more Courage than Caution, and a greater Zeal for the Protestant Interest, then Care of His own particular Concerns, undertaken mighty Things for us, and run such Risques in the Accomplishing of them, which Story can scarcely paralell. But what the sequel of this will be, I must leave to *Astrology*. 'Tis true, the people seem to be Unanimous to a wonder, and yet there are a *Sett* of Men in this Nation whom nothing will satisfie but to Lord it over their Brethren: These do still labour under some Discomposures, and although, in no respect disoblig'd, yet fearing they may receive a Crush in this great *Turn*, do by their Sourness and Discontent rather assist and further their fate, than anticipate and prevent it. The Protestant Dissenters are not esteem'd, by Computations which have been formerly made, to amount to more than a 25th. part of the Nation, the Church of *England* receiving all the rest: This I do believe to be true, if the Church of *England* be taken in the most large and comprehensive Sense, by including all such as frequent the publick Service: But if we might suppose them in the same Circumstances that Dissenters were in, at the time of this Computation made, under the Frowns of the Court, and the power of the Laws, which like so many Billows, beat in against them; if thus we might be admitted to view them in Reverse, I do believe their Numbers would not exceed, or Scarcely equal those of the Dissenting party. There are but very few in the Nation would undergo Fines and Imprisonment for the sake of the *Surplice* or *Common-Prayer*. The prevailing Opinion

now in *England* is, *Latitudinarian*: Moſt Men are ſo far improv'd in their Judgments, as to believe, that Heaven is not ſeal'd upon any particular Opinion, and that either an Epiſcopal, or Presbyterial way of Worſhip, together with a due obſervation of the Rules of Morality, may ſerve well enough to carry them to Heaven, the only Byas which enclines them to the one ſide or the other, being the Laws. *Be ſubject to the Higher Powers, not for Wrath, but Conſcience*, ſways the Scale and gives the caſting Vote in ſuch Things as are thought indifferent: This is it which crowds the Church, otherwiſe the Sarſnet Hood and Lawn Sleeves might be as deſtitute of Votaries, as the Long Cloak and Collar Band.

Which way the ſucceeding Government will lean, I dare not determine, but it is more than probable, That *Epiſcopacy*, in that ſtrictneſs in which it has of late Years been exercis'd, ow'd its *Continuance*, as well as Originally its *Being*, to the King: His power and His purſe, has been liberally imploy'd in favour of the Church, and they as plentifully requited His Kindneſs, by their Doctrines of *Jure Divino-ſhip*, and *Paſſive Obedience*: So long as the King continued thus their Servant, He was in all Cauſes Civil and Eccleſiaſtical, their Supreme Head and Governour: But when the King became of another Intereſt, and they themſelves were likely to be ſqueez'd by the preſſures of their own Weighty Doctrines, then *the Caſe was* immediately *alter'd* and *Plowdens Hogs could be no longer Treſpaſſers*: They inſtantly chang'd their Note, and rang their Bells backward, for they were all on fire, and likely to be reduc'd to their original Duſt in a moment. Fears of *Popery* was firſt the pretence of their diſſatisfactions: This was very plauſible, and ſeem'd once to give them an intereſt in the people: But ſurely now theſe Dangers are Remov'd; the Proteſtant Intereſt is likely to ſettle upon firm Foundations, and the *Prince* ſeems well affected to their way of Worſhip, and ſignalizes His Approbations by Communicating with them according to the Rights and Ceremonies of the Church, and yet they ſeem diſſatisfied, and are ſtill apprehenſive of Danger.

What then can be the reaſon that this bright Hemiſphere ſhould thus be wrapt up in Clouds and Darkneſs? It muſt needs be this, That they have loſt, or are likely to loſe the King and Courts good Service employ'd in all or moſt of the former Parliaments ſo freely in their behalf. This in truth was the chief Pillar of their Church: That which firſt built, and afterwards ſupported it. Thô the *Prince* does ſufficiently approve of this Eſtabliſhment in His own

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Judgment, yet He is reſolved to call a *Free Parliament*, being the purport of His *Declaration*, backt with many ſubſequent Promiſes and Aſſurances in which the People ſhall have freedom to Elect ſuch Perſons as are for the True Intereſt of the Nation, and not for the upholding a particular Intereſt or Faction There ſhall be no Elections either forc'd by Power, or brib'd by Treats; No falſe Returns, no Committee of *Affections* to determine according to the Court or Ch. of *England* Intereſt; No Parliamentary Penſions, nor Treats with Guinea's laid under their Plates to ſeduce them from their honeſt Principles and the Intereſt of their Country. The *Prince* abhors ſuch irregularities: He deſires ſuch an Aſſembly may meet, as may truly repreſent the People, to Enact and Eſtabliſh ſuch Laws and ſuch a Government as may ſecure their Religion, Liberties and Properties, with the beſt advantage and ſecurity to the Nation that can be propoſed: And although the Church of *England* is hereby left deſtitute of that unfair and irregular advantage it firmly had from the King's power and aſſiſtance, yet I doubt not but this and ſucceeding Parliaments will Enact ſuch an Eſtabliſhment in the Church, as may very well agree with the honeſt deſires of the more moderate and pious Church-men.

What the Civil Government will be, is more difficult to gueſs at, but I can tell you what it has been, and wherein it ſeems defective and requires ſome touches of your Legiſlative Skill to help it out. This I am confident of, That if the Conſultations of this great Councel does but produce what the Neceſſities of the People, and the Conveniencies which a well-ſetled State does require, the Alterations will be very conſiderable. 'Tis true, there is a Notion generally receiv'd by the Nobility and Gentry of *Eng.* that a *Mixt Monarchy* (juſt ſuch a one as ours is, and no other) muſt needs be the beſt of Governments, and that amongſt all others, none could boaſt of thoſe advantages as that of *England*. This fancy is ſo rivetted in the minds of the People (ſpread abroad and preacht up, only to keep the people in peace, and from endeavouring an Alteration, which could not be effected without the Inconveniencies of the Sword) that I do believe All things will again ſettle upon its old *Baſis*, and the Government be rebuilt with all its irregularies. However, becauſe I underſtand you are in election to be one of Thoſe, from whom ſucceeding Ages muſt derive their Happineſs or Miſery, I will make uſe of the Liberty you have given me, to expreſs my Sentiments in this mighty Affair, in order to which I will in the firſt place acquaint you with my Notions of Government in general, and afterwards will deſcend

deſcend to Particulars; And to our preſent Caſe as it now lies:

Government is a Power whereby a Commmnity of Men are kept in Order, and diſpoſed to act conformably to their Natures, and to the common advantage of the whole Body Politick. This Power is ſometimes plac'd in one ſingle Perſon, and then it is *Monarchy*: Sometimes in a ſelect number of the *Chiefs*, when it aſſumes the name of *Ariſtocracy*; And ſometimes in the whole Body of the People, which is called *Democracy*. But of theſe three *Primatives*, there are ſeveral Derivatives, Compounds, and Variations.

The firſt, *Mageſtracy*, I do allow to be grounded in Nature, and the firſt *Magiſtrate* to be a *Genarcha*, or Patriarch, who rul'd over Families of his own Extraction, and Citties of his natural Generation. It was in this ſenſe that the Fifth Commandment was given; and it was from hence that Men grew up into Citties, Kingdoms, and Empires, and therefore the Laws to regulate them ought to be ſuch as are apt and fit to govern Families, for the preſervation of their *Peace*, *Liberty*, and *Properties*, not to bind them to perpetual Slavery and Vaſſalage. So alſo, the Submiſſions due from the People to the Supream Power, are in their nature filial, not ſervile, as proceeding rather from Love and Gratitude, for protection given, than for fear of the Rod hanging over their Backs, which ought to be exerciſed only to prevent a common Inconveniency. But this Patriarchal Government, continues no longer than the Patriarch holds a power over his Family, to puniſh ſuch offences in particular perſons, as might otherwiſe (if allowed of) obſtruct the common Intereſt; and to protect the whole Body and every individual in their natural and acquir'd Rights, both from Domeſtick and Forreign Invaders: For when the natural power of one or more in Conjunction ſhall exceed that of the Patriarch, or Father of the Family, this for of Government is ſo far diſſolved, that if they pleaſe and find it con venient, they may reaſſume their natural Freedom, or again engag in the ſame Family, by Pact or promiſe, or elſe leave it, and b compact with others, ſubmit to what Laws or Meaſures of Livi together in a Comunity they think fit. He that will make t natural *Magiſtrate* more Sacred than this, may at laſt commit Idol try, and fall down to worſhip.

But this is not the State of any Nation or People now under Heave We are all ſhufled and blended together, ſo that we ſtand not Ori nally aſſociated to any Magiſtrate out of natural Duty, but out mutual fear of each other, which to avoid, produc'd, theſe civil Co

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pacts by which the World is now Governed. Thus being seperated from our Families, each Man has a right by nature to defend himself, which supposes his primary Allegeance now due to himself: He has farther an equal right with all others to all things necessary for sustentation, & an absolute right in his own person; & having thus a *mutuum jus* in both, he is fitted for mutual Compact with others. 'Tis certain that Nature, thô She did provide for Mankind in its tender helpless and unexperienced years, a natural Governour and Protector; yet being withdrawn from that Power and Subjection, it falls into a state of War, which was the Condition of the World in those Times, which Historians call Heroical: When *Nimrod* obtained the Character of the stoutest Hunter, and *Hercules* travelled to tame Monsters and Usurpers.

The Patriarchal Government being at an end, and the People being now left in a state of War, occasioned by the Universal Right that every man had to every thing, the Government that succeeded was accordingly Martial and Warlike, and their Governours were rather Generals than Kings, and like them, Arbitrary and Unlimited. In this state the Chief Magistrate was properly and Originally called *Tyrannus*; but Lust, Ambition, and Avarice being the usual attendants of absolute power, did too far prevail, to the prejudice of those in Subjection, that both the Person and Title of such Governours in time became odious and contemptible. It was for this reason that *Plutarch* in his life of *Timoleon*, affirms that over a Tyrant, every man is a Judge, and may be an Executioner; and *Plato* in his Common-wealth, delineates a Tyrant amongst his Subjects by a Woolf amongst the Flock, plac'd there rather to devour than preserve them.

But the World soon grew weary of this Course of Life, and by experience found that Compact was more apt for the Coalition of Societies than mere Power; which is the cause, That in the more civiliz'd and cultivated parts of the Earth, this sort of Government is very rare and unusual, unless sent by the Supream Power of Heaven and Earth for the punishment of a People for some Sins committed, that thereby they may be compell'd like the mute Fish in the Gospel, to bring their Penny unto *Cæsar*, and after pay their Lives for Contribution: And it is observable that it prevails principally, and is no where else willingly allowed of, but where Idolatry and Invincible Ignorance are the National Sins.

This Tyranical Government, or State of War, being found uneasie

eaſie in many places, and more intollerable than the Patriarchal Government in which they were firſt engaged, and alſo finding that there is now no Father of the Country, in a natural Senſe: The People as becoming Orphans, chooſe *One* or *More* to be their Guardian, which in ſeveral Countries goes under ſeveral Denominations. Thus the People are in a ſtate of Pupillage, and as a *Minor* cannot make a Contract to his prejudice, ſo we may conclude, that the People may meliorate their Condition by Compact, but cannot make it worſe; and therefore it may with much more reaſon be allowed, that ſuch Conceſſions which are made by them, and which infringe or derogate from their natural Rights ſhould be void, than that what a Prince grants to his People out of his Prerogative (tho' for their better Government and well Being, for which alone Prerogative was firſt given and intended) ſhould be null and of no validity, which ſome Preſidents in our preſent Eſtabliſhment ſeem to countenance and abet. Thus all Governments in the ſame degrees that they differ from Patriarchal and Tyrannical muſt derive their Originals from Compact, and the Governour muſt neceſſarily derive his Power from and by, the mutual Conſent of the People he governs; unleſs God does himſelf immediately appoint a Magiſtrate, and even then the People have uſually confirm'd, as in the caſe of *Saul.* 1. *Sam.* 10. So of *David*, 1 *Sam.* 16. 2 *Sam.* 2.

I cannot but with *Grotius* believe, that *Salus populi eſt Suprema Lex.* Nor did *Junius Brutus* err in affirming that, *Imperii finis unicus eſt populi Utilitas*. But on the contrary to imagine the People to be made for their King, and that a Million of Souls ſhould be Born Slaves and Maſſals to the Luſt and Tyranny of one Man, who by nature is no more than their fellow Creature, made of the ſame mold, and ſtanding upon the ſame level with themſelves, is nonſenſe and directly contradictory to the true notion of Government it ſelf. In all States and Kingdoms whoſe Government is by Compact, the King cannot be ſuppoſed to be any thing more than an Officer, elected and appointed by the People to preſerve the Government, and therefore the People muſt neceſſarily be ſuppoſed to have ſtill a Reſerve of Power in extraordinary Exigences above the King. *Quicquid eſſicit Tale eſt magis tale.* Their Conceſſions cannot extend farther than for their own preſervation, and when that ceaſes, the Grant determines. Our General and Original Rights cannot totally be ſwallowed up by any Compact that can be made to ſettle Liberty and Property, neither is that thing was Natural now made Civil, wherefore that old Law

was but old Reason. *Quod populus postremum jubet id ratum esto.* Upon this Account the People in notorious cases, do themselves become the Accuser, Judge, and Executioner; it being but reason that in such Cases they should be allowed this priviledge; for as every man is the best Judge of his own health, and how such and such Means and Medicines assists and helps the health and vigor of his Body; so in the *Body Politick*, the People must be Judge how this or that Governour or Law agrees with their Constitution, and Contributes to their Health, Peace, and Welfare. In the *17th.* of *Deut.* and the *14th. v.* God leaves the Election of a King absolutely to the People, and puts it into their choice whether they will have a King or not, and whosoever they pleased to set over them (provided he were chosen from among their Brethren) should be their King. Thus before *David's* Inauguration, *The People made a league with him*, 2. Sam. 5. 3. v. And by this they restrained and bound him up as they thought fit: And he who in any settled legal Government, arrogates to himself any other Supremacy over all or any part of his Brethren, other than what is immediately appointed by God, or claimed from the People, breaks those Bonds and Limits which they have set; and is as Civilians distinguish, *Tyrannus exercitio*, though not *Titulo*.

A Supream, Absolute, and Arbitrary Power, is essentially necessary in all Governments whatsoever, whether *Monarchial*, *Aristocritical*, or *Democritical*, in respect of which, these three distinct Species differ no otherwise than as a Guinea from twenty Shillings, or forty Sixpences, which put together are equivalent one to the other. Thus the Supream Acts of all Governments are the same, for no State can go higher (nor ought to descend lower) than *1st.* to be able to redress a grievance, by making or repealing a Law. *2ly.* to have the power of War and Peace, *3ly.* to judge of Life and Death, and *4ly.* to fix all Appeals in it self. So also if a mixture be made of these three Governments, yet it makes no change as to the product of a Supream Act; for they who limit one another, are yet Copartners and do the same thing together which one alone doth Legislatively: And as the prudence and foresight of the first Founders of these various Constitutions, saw any advantage or inconveniency peculiar to the people, place, or time they liv'd in, so they accordingly made various and suitable provisions and Laws, to assist the Good and to divert the Evil. Upon this account there are few Governments but have some things woven into their Constitution peculiar to themselves. In *Poland* where the Monarchy is Elective, and

the Prince bound to observe the Laws, any Gentleman may safely and freely accuse his Prince. In *Arragon* the Chief Justice has a Tribunitian power. In *Venice* the Duke stirs not out of the City without leave, and is made so much greater then any of the rest, only to allay the growth of Ambition in any one besides. In the form of Transactions, Most do follow the Plurality of Sufferage, but in several ways: In the Senate of *Venice* in many Cases there must be a Concurrence of three parts of four. In the Conclave of *Rome* at the Election of the Pope, two parts of three must concur: In the Consistory the Pope alone carries it against all the Council of Cardinals. In the Convention in *Poland*, *Potior est Conditio Negantis*, One Negative hinders all proceedings in the most important Affairs. In *Holland* the States General of the Provinces have but seven Votes in all, and these obliging according to the Plurality of Sufferage, but the number of States sent to manage the Interest of their single and Provincial Votes are unlimitted; and as the respective Provinces please to Delegate; wherefore their Votes may be more properly termed local than personal; but with us in *England* Votes are merely personal; for as we represent not Provinces or Places distinctly Supream, but mixtly together; so the odd Vote carries all; by which it may happen that one man may make or destroy the best Law that ever was. From these particulars you may collect the varieties that are in Government, instituted according to the different Notions of the first Founders, and the Circumstances and Temper of the People Govern'd.

Monarchy vested with the most absolute powers that either Concession or Conquest can create I esteem the best of Governments, but that only happens when it represents God more in his *Justice* than *Singularity*; and when Mercy is the Ornament as well as Power the supporters of his Throne: In such a Government under a Prince whose Goodness and Wisdom runs in equal paralells with his power and greatness, the people are happy and secure, whilst their Neighbours live in fear and subjection, His Councils are private, and the Execution of them suddain, without which no great enterprise can be successful: To such a King is applicable the Answer which was made to this Question upon *Pasquil* in *Rome*, *Quid est Prerogativa Regis*: The Reply being *in optimo Rege nihil nimis, in Malo Omne Nimium.* But to take a view of this Government in its dark side, under a Child, Fool, or vitious Prince, nothing carries such an aspect of Horror and Misery to the poor Wretches who live under it: Where-

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fore, if we consider that the generality of Men, when let loose to their natural, or rather corrupted Inclinations, are much more apt to lean towards Tyranny and Oppression, than to such Methods as may promote their Peoples Happiness, I think this sort of Government by no means desirable. It does at the best but keep the State which is directed by it, in a fluctuating and unsetled condition. It sometimes in the Reign of a Warlike and Ambitious Prince, like the Sea in a Storm, rowls in with rage, and Fury upon a Neighbouring Shoar, and again under the Tuition of another who is of a weak and pusillanimous spirit, it moulders and gives way to the loss of all its former Acquisitions, so that the Ballance of the Kingdom is never at a stand, the Scale moving sometimes upwards, and anon down again, and the People consequently kept in a rowling, unsetled condition, poor, miserable, and uneasie.

Aristocracy is composed by a select number of the Chiefs of the People to Govern the Rest, and stands like a Moderatour between the Excesses of Kingly and Popular Power: But this Mixture often produces Monsters, and as as the greatest Storms are form'd in the Middle Region, so the Bloodiest Commotions are rais'd in this State, though most Temperate.

Democracy does properly and naturally reduce all to equality, and most carefully consults the Peoples Liberty and Property, but withall, it obliges every Man to hold his Neighbours hand, and when it falls, it does with great difficulty recover its feet again. 'Tis true, that Monarchies are more Quick and Expeditious in their Attempts, but Common-Wealths, as they are more slow, so they are more sure, and in regard that their Councils are more publick, so are they generally more Honest and justifiable. Common-wealths are not like Monarchies, subject to the inconveniencies of Evil Council or Corruption where the Prince's personal folly or ambition, the Commands of an Imperious Wife, or the Flatteries of a Fawning Courtezan, may in a minute overthrow a People and Kingdom. We have found it by sad Experience, practised at home, where a Chamber-Maid has prevail'd with her Mistress, and she again by a Kiss or Smile with the Monarch; and we also owe all our present Discomposures to the Directions of a Zealous Priest, manag'd by the Mediation of a Commanding Queen. We are also sufficiently sensible of the great Unhappiness that befalls a people living under a Monarchy, in having their Prince of a Religion different from themselves: But this Inconvenience can never befall a Common-wealth,

it being impoſſible to change, alter, or introduce any new Religion by ſuch a Government, but ſuch as the greater part of the people embrace, and are willing to receive. But in Monarchies the King being but one perſon, may in that reſpect be more eaſily and probably ſeduc'd, both to his own and his peoples irreparable Injury.

The Eaſtern Countries which lye under the Courſe of the Sun, as *Perſia*, *Turky*, *Africa*, *Peru*, and *Mexico*, are moſt diſpos'd to Monarchies, in which latter Quarter of the World the people are better Govern'd by the *Spaniard*, who are by fits in the Exceſſes of Kindneſs and Cruelty, than by the *Dutch*, whoſe Government is of a more even Temper. But in *Europe* and nearer the Pole, the people are diſpos'd more to Republicks, temper'd by fundamental Laws. *Nec totam ſervitutem pati poſſunt nec, totam Libertatem.* Sir *William Temple*, whoſe inſight in the Conſtitutions of States and Kingdoms, may deſervedly give him a deciſive Vote, tells us, That *Monarchies do indeed ſeem moſt Natural, but Common-Wealths the more Artificial ſorts of Government*; which was but a modeſt way of giving his ſuffrage for the laſt, for Art always corrects the defects of Nature, and polliſhes it up to a greater Luſtre: But when all is done, we find it experimentally true, that all Government's like all ſublunary things beſides, have their Defects: Nature in every part is ſick, and therefore can find reſt in no poſture; Humane Laws grow out of Vices, which gives to every Government a tincture of Corruption.

That the Government of *England* was originally and always under the ſame conſtitution that now, or of late it did appear to be, I cannot conceive, though Sir *Edward Coke*, and ſome others, do ſeem with much earneſtneſs to contend for it. I am of opinion, that like *Epicurus* his World, it is grown by Chance and Time to what it now is or lately was, by various Concuſſions and Confluence of People, Intereſt, Factions, and Laws, like ſo many Attoms of different ſhapes and diſpoſures, ſpringing from meer Accident in ſeveral Ages; for where there are Men, there will be alſo Intereſts, which creates Factions and Parties, and theſe, as they prevail, or are ſuppreſt, produce Laws for or againſt them, which ſo far alters the former Government, as new Laws are introduc'd in the room and place of old ones which were thought fit to be Repealed and Abrogated.

Altho ſome Governments ſeem to be built upon firmer and more unalterable Foundations than others, yet there is none but ought to adapt it ſelf to the Circumſtances and Diſpoſition of the People Govern'd, and as theſe do daily change, ſo ought the Government to

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ſhift and tack with them, that it may the better hit with the Neceſſities and changing Circumſtance of thoſe for whom it was firſt inſtituted.

That Property is founded in Dominion, I look upon to be a moſt undeniable Truth, for Naturally in the ſame degree that a Man has a Right and poſſeſſion in a thing, he muſt neceſſarily have the Power and Dominion over it; To argue or defend the contrary, is as great an abſurdity in Nature, as to ſay the Fire muſt be hot, and yet not burn ſuch Cumbuſtibles as are caſt into it. It is upon this account that the *Grand Seignior* is ſo Deſpotick in his Government, for by the Conſtitutions of that State all Lands are in the Crown, none hold longer than during pleaſure, or for Life, and then their Lands revert to him that gave them. For the ſame reaſon, in the days of *Englands* Ignorance and Poverty, when Arts and Learning were ſtrangers to the Land, and the people were ſcarcely removed from their primitive eſtate of Nature and War, when every man had a univerſal Right to all things, and no man could by a peculiar property pretend to a Poſſeſſion longer then his Sword and Bow could maintain it; Then I ſay were our Governours like *Generals*, abſolute and unlimited. 'Tis true indeed, we have ſome dark ſhadows of Laws and Councils, then in uſe, which our Governours thought fit, as they ſaw occaſion to make uſe of; and we alſo find the People ſometimes diſſatisfied, treating their Magiſtrate with much Roughneſs and ill Uſage upon his Male Adminiſtration; yet this does not at all argue that their Governours were limitted and bound up by Laws, as now they are: Theſe things are all practiz'd in *France*, *Turky*, and the moſt Arbitrary Monarchies in the World. Without Laws and Methods, ſuch as theſe, one Man is not able to govern Millions, and therefore *Moſes*, who under *God*, was Abſolute and Arbitrary, was neceſſitated to appoint certain Rules and Methods, and to admit of others into the Government with him, as Aſſiſtants, by their Councel and Advice, the Work being too great for one Man to diſcharge. It was from the King's abſolute Property in the Lands of *England* (which in thoſe Times none could pretend to but by and through him who held the Sword) as well as from his power over the Laws that our old Tenures ſprung of Knight-ſervice, Serjeantry, Eſtuage, Socage, Villenage, *&c.* Then were all Tenures *ſervile*, and all Perſons held mediately or immediately from the King, which our Law-Books tell us, we ſtill do; but there was a vaſt difference between our then, and preſent Holdings, the firſt being by actual Services paid; theſe

now

now being only Nominal and Titular: To hold in *Socage*, is by the Service of the Plow, (as almost all persons are said to do) The Tenant was in old Times actually bound to Plow the Lords Lands, in consideration of which Service, he granted to his Plow-man, instead of Wages, to hold another piece of Land to his own proper use; but now, though the Tenure does nominally remain, yet the Service is absolute; every Man being now become, by the circular motions of Chance or Providence, his own Lord, and his own Plow-man: His Property and Possession makes him the Lord over those Glebes which his Necessity (derived from his Ancestor *Adam*'s Transgression) makes him Till.

Those Governments which succeeded the *Patriarchal*, were all Military; all people being then left by Nature in a state of War; but some Countries ripening into Prudence and Knowledge sooner than others, they also sooner betook themselves to Compact, and to such Methods of living, as might be for their Common Advantage. Amongst these, *England* was none of the earliest Reformers, but continued long after *Greece* and *Rome*, in that Natural state that the first Fathers of Families left it; and there was reason for it, in respect it was an Island, and (in those Times, when *Navigation* was in a great degree a stranger to the World) not so apt for Commerce or Correspondence with other Countries which were more civilized; they had then no Government but what conduc'd to War, and no other King but a General. *Cæsar* in his Commentaries, tells us, that he found the *Britains*, poor, ignorant, and destitute of Laws, but he also gives them the Character of a People dispos'd to War, *Britannos in Bello promptos & in Armis expertos*: All things (as in the state of Nature) were in Common, even to their Wives and Children: But the *Romans* having given them a taste of the sweetness and advantage of Government, they soon after began (as *Tacitus* in his Annals acquaints us) to make Application to their General, to protect and defend them, by his Power and Strength, in the peaceable enjoyment of certain proportions and allotments of Land, against all Invaders; In lieu of which Protection to them and their Heirs, they promise and swear to him and his Heirs, certain Services, together with Homage and Fealty. With this Notion of *Tacitus*, *Bede* seems to concur in the 4th. Book of his History, where he says, That Generals and Kings were amongst the *Britains* as Terms Univocal, for Kings went always out to Battle in times of War, and in Peace, exercis'd the Legislative power at home. And *Ammianus* in his 15th. Book, is more

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plain and positive, for he tells us, That *Britanni nulla separati fruebantur possessione, nisi Principis concessu & potestate defendatur.*

From hence it may be reasonably allowed, that *England* was first Governed by an absolute Power, not from the Election of the People, nor by Conquest, but from the Temper, Disposition, and Circumstances of that Age of the World in which most Countries lay under the same sort of Government, and more especially by their Ignorance of better methods, which continued longer in Islands by reason of the difficulty of Commerce, than in Continents where a Correspondence was then more easily maintained. It is undoubtedly from this bottom, that the People of *England* are still supposed to hold all their Lands mediately or immediately from the King, and 'tis perhaps from hence that so many Commons and Wasts still remain unincloſed, and that Waifs, Strays, Wrecks, Wasts, and all other things, in which no man can lay a particular propriety, are reputed to be in the Crown.

Upon these reasons I conclude, that the property of all the Lands here in *England* being originally in no particular person, must necessarily (as the Law still is in such Cases) rest in the King, and those that held from or by his power, neither had or could have any right against that power by which they held, but only against others that were in a level with themselves.

How many these Landed Men Originally were, or what sepe rate proportions were alloted to them, whether the quantity of a County, Hundred, or Tything, or whether their Allotments were according to the largness of their respective Families, or their Princes favour, I cannot say: But these Proprietors were probably the *Pares Regni*, or such as afterwards, by the growth of Laws and the removal of Ignorance, became by a settled and uncontroulable right, the Peers and Nobles of the Land; and having by their Princes permissive favour long enjoyed their Dignities and Possessions, they at last wrought them up to an Establishment by Law, insomuch that what was held before *ad voluntatem Domini*, is now made hereditary, performing only some small Services and Acknowledgments to their King or General, some whereof were payable in times of War, as Knight Service, Escuage, petty Serjeanty, and grand Serjeanty, others in times of Peace, such were Burgage, Villenage, Socage, Homage, and Fealty.

Thus did a part of the People first twist themselves into a real Property in part of the Lands of the Kingdom, and as the Prince proved

ved kind and liberal, so did the numbers of these Proprietors increase, and their Properties grew more strong and indefeasable, and so consequently their Power and Dominions; but the Prince on the other hand grows proportionably poorer and weaker, Both resembling a Boat which rises and falls with the flowing Element that bears it up. After this manner the Lords grew daily richer and stronger, till they had in a great measure, by their acquisitions strip'd the Crown of its chiefest Embellishments, and invested themselves in much the better share of the Lands of *England*: And their Power grew with their Property to that degree, that they who were Originally but Servants to the Prince, became now Masters of the Nation. This, King *John* to his sorrow, was sufficiently sensible of in his Barons War; and it was from the Power of the Nobility alone that King *Henry* the Seventh did receive his Chaplet as well as Crown. He was a wise Prince, and from hence took an occasion of Jealously, that the same Powers which rais'd and plac'd him in the Throne, might pull him down again and lay his Glories in the Dust. To prevent therefore all Dangers which might arise from their growing Greatness, he first procures a Statute to be Enacted against Retainers, that the number of the Followers and Attendants of Noblemen might be retrench'd, for they did so far indulge the Vanity of a large Retinue in those times, that their respective Trains were sufficient for a Soveraign Prince's Guard. In the next place he procures the Statute of Fines to pass both Houses, whereby the Nobility got a power (which by the Common Law they had not) to cut off Entails, and thereby to sell their Estates to the best Purchaser. Before this Statute, an Estate in a Noblemans hand, might in some respect be said to be in *Mortmain*, for by the Intail it was so bound up in the Family, that it grew almost irremoveable; and thus having a power to purchase but not to sell, their Possessions, and consequently their Power grew daily greater, without a possibility of Diminution. But these Entails, as they were injurious to Trade and Industry, so by their Consequences they were dangerous to Regall Authority, and therefore this Device was contriv'd to prevent both these Inconveniencies: and it did indeed prove very effectual in divesting the Nobility both of their Property and Power, but at the same time it open'd a Door to the Commonalty, and gave them free access to that Property and Dominion which the Nobility did by degrees part with: Nor did they neglect to improve this advantage they had got by Diligence, Industry and Frugality, for in process of Time they wound them-

themſelves into the better ſhare of thoſe Poſſeſſions which were firſt derived from the King to his Nobles, and from them thus to the Commons of the Nation.

The Effect and Conſequence of theſe Acquiſitions, made by the Commonalty, were diſcover'd and fear'd by King *James*, but not felt till the Reign of King *Charles* the Firſt, who by an imprudent Conteſt with *Tou* Superior Power, was firſt depriv'd of his Crown, and afterwards of his Life. The yearly Rents of *England* (beſides the accrewing benefit of Trade, which is altogether in the hands of the Commonalty) amounts to 14 Millions *per annum*. Of this the King and Nobility both together hold not above one Million at the moſt, the King's Revenue being principally made up by the Exciſe and Cuſtoms, not by the Rents of Crown Lands; ſo that there remains 13. ſhares of 14. of the Lands of *England*, and conſequently a proportionable ſhare of the Power in the Commons. But the Conſtitutions of our Government, as it now ſtands, placing the Dominion in the King, whilſt the Property is in the People, does in this commit a ſort of Violence upon Nature, in ſeperating thus the Soul from the Body, the Power from the Poſſeſſion: This it is which cauſes theſe frequent Diſtempers and Convulſions in the Body Politick; for Power is a ſort of Volatile Spirit which cannot ſubſiſt without a proper Vehicle to give it a Body, and this muſt be Poſſeſſion, from which if it be once ſeparated, it immediately evaporates and diſappears.

Having hitherto trac'd the Government of *England* in its Originals and Procedures, I will farther take the liberty to advert ſome Particulars as they ſeem now to ſtand in its preſent Conſtitution; and in the firſt place, I cannot think it ſo happy and well compos'd a Government, and ſo aptly ſuited to the preſent condition of the People, as moſt Men endeavour to repreſent it, for it ſeems in its Frame and Nature to be *ſitt* to Factious Intereſts and Diſſentions, and thus it has been ever ſince the diſunion between Property and Power; the Court and Country Intereſts are no new nor unknown Terms to us, and have been managed and upheld by their reſpective Votaries (tho in ſome Kings Reigns with greater Spirit and Animoſity than in others) ever ſince, and for ſome time before the Barons Wars. The people have got the Poſſeſſion, and the King is entruſted with a power and prerogative over it, or at leaſt with ſo much, as may prove prejudicial to it. This Naturally creates Fears and Jealouſies, leaſt at any time the Prince by his power, ſhould invade their Properties and abridge

their Liberties, upon which account his Prerogative is the Mark they level at, esteeming it rather their Terror than their Security for which it was at first given and intended; and therefore when the people find an opportunity, either by their Prince's weakness, folly, or other unhappy circumstances, they have usually made breaches upon this Bulwark of the Crown, and by such Sallies and Incursions have got ground and advantage towards the farther securing of those Liberties and Properties they with so much Diligence and Reason endeavoured to provide for. So on the other side is the Prince jealous of his people, and is always fearful that they should snatch this Rod which he holds over their Backs out of his hand; and to obviate this Evil, he is not without his Counter-designs also, and therefore spares neither Money nor Power in the Elections of Parliaments and Juries, to obtain such persons to be return'd, as for a Mess of Porridge will sell their Birth-right, and by advancing his Prerogative and lengthening his Scourge, are willing to ruine and undo their Country: And so it generally falls out, that when this power happens to fall into the management of an haughty daring Spirit, it breaks in upon the people, and endeavours to get again by Force, what his Ancestors had given away by Flattery. Thus there is always a Tide of Ebb or Flow, the Scales rarely or never standing even between the King and his People; and indeed the Constitution of our Government is such, that Murmuring and Dissentions do naturally spring from it: the *Ground* is dispos'd to produce such Weeds, we are always engag'd in a sort of Civil War, and in this respect continue still in the same state in which Nature left us. *An House divided against it self cannot stand*, every Man has enough to do to defend his own from Domestick Invaders, and whilst this *Root* of Division is suffer'd to grow at Home, its impossible to do any thing that's Great abroad; every Design is poyson'd with a Jealousie in its Cradle, and it is enough to make the people suspect it a Snake (tho the Skin and Flowers in which it lies be never so plausible and pleasing) if the King does but hand it to them. From hence it is that our Government always totter'd, twice fell down, and now lies in its primitive undigested *Chaos*, and he must be a greater Architect, than Perhaps our Nation can afford, to warrant its standing above three ordinary Reigns, if it be rebuilt upon its old Foundations. An Expedient to prevent this Inconvenience, will be a proper Subject for this Great Convention.

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Another thing not well consistent with the Policy and Government of *England*, is the exceeding largeness of the Revenue of the Crown. In *France* indeed it is six times greater, that King being reputed to have 12. Millions, and the King of *England* but two: But we see the miserable Effects of it, in the extreme Poverty and Vassallage of his people. 'Tis true, the Kings of *England* once had more, for they had in effect all, but then the people were but one remove from the state of Nature, and the possessions are now got into the hands of the people, which they will be loath to part from, so that the Case is much alter'd; Whatsoever the Government of Heaven may be, yet on Earth in one State there cannot be two Equals, One must submit and the other must Govern, or else there will be a constant War; and while the King has so great a Revenue as to be able to maintain a Standing Army, there still remains so much of this Equality as will promote and maintain such Differences as ought by no means to be allow'd of in a well constituted Government: But moreover, the people by the present Constitution, are Sharers with the Prince in the Supreme and Legislative Power in Parliament, and 'tis by them that Grievances must be redrest. It ought therefore in every Well-Constituted Government to be provided for, that this Supreme and Legislative Power may frequently, if not always, be in a capacity to Enact and Order such things as tend to the Peoples Benefit and Security; but in this, our Government is defective, it being in the Prince's power (as our Lawyers have generally determin'd) to keep off Parliaments as long as he pleases. And how is this defect remedied? Only by another, which on the other side they subject the Prince to, which is, by keeping him poor, that so his poverty may necessitate him to call frequent Parliaments. Thus by a mutual lameness or infirmity on both sides, the Prince and People are become equal Matches, Both Cripples, not able to go forward in any great Enterprizes abroad, but to lie struggling with each other at home. King *Henry* the Fifth, had but 56000 *l. per annum*, and Queen *Elizabeth's* whole Revenue was but 160000 *l.* but some kind Parliaments (and such they usually are to excess, upon the first accession of a King to the Throne) either brib'd by Smiles, or flatter'd by Hopes of private Gain, have thought fit to fetter the Nation by advancing the Revenue to about two Millions *per annum*; so that now there is little hopes of meeting with these advantages and opportunities of tacking their Grievances to a Money Bill, which formerly they use to do; though in truth, even then the State was in a dangerous con-

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dition, that could not have a Remedy at hand upon every Disturbance and Malady which should happen. This I think may not improperly be esteem'd a thing worthy of Your Thoughts to find a proper Expedient to redress it.

Another Particular which I take to be one of the greatest Silecisms in Government imaginable is where the most Absolute and Supreme power is yet without a Power to Remedy and Redress the Peoples Grievances: Thus it has been for many years adjudged to be by the Interpreters of our Laws and Government, the Judges. And to illustrate this by an Instance. Suppose the people are agriev'd, and want a Law to set them Right; The King has no power to make it of himself, and till he thinks fit to call a Parliament, the people must still continue subject to their Government: But perhaps the Kings Interest (which is unhappily divided from the peoples) forbids this Expedient; What shall be done? Why then let them stay and be ruin'd, till the King wants Money, which as the present Establishment is, will never be. But suppose a Parliament is called, and they in their proceedings happen to fret upon the Kings Prerogative, a Favourite evil Councellor, or some other Interest that the King has a mind to promote and protect, though never so opposite to that of the Nations, why then their Supreme and Legislative power is not worth a Rush, for the King, though he has no absolute power himself, yet has a power above this, to destroy it by a Dissolution or Prorogation when he pleases, and so like the Cat in the Manger, can neither eat Hay himself, nor suffer the Horse to eat to whom it belongs. This seems contrary to all the Rules of Art and Nature, and more Unintelligible than the Doctrine of the *Trinity*, or *Transubstantiation*, for here the Supreme power is subject to an Inferior, and the King who is *Minor Universis*, yet is also *Major* and Superior to them; That Power which was given for the Protection of the People is their Destroyer, and the great and weighty Affairs of the Nation becomes subject to the passions and humours of a single Person. This I think I may safely affirm, That all Governments are built upon wrong bottoms, where there is not a Supreme and Absolute Power, which may without Controll, and upon any suddain Occasion or Emergency, alter, create, or repeal such Laws as shall be thought by them necessary for the Peoples Good.

Another thing that has been very incongruous and disagreeable in our Establishment is, That the Election of the Judges, and consequently the pronouncing of the Law, should be in the Kings Power,

If indeed he were a Third Person unconcern'd in point of Interest, this Method would be more tolerable; but being *One* that so often sets up an Interest different from that of his People, and is subject to be seduc'd by the evil Councels of a Confessor, Miss or Favourite, and the Peoples Rights hanging wholly upon the Lips of these twelve men in Scarlet, it is most fit they should be chosen by Them who are chiefly concern'd, and for whose benefit and protection both the King and Laws were first made and intended, otherwise that very Prerogative, which was given to the King only for the better enabling him to act for the benefit of the People, may be (and often is) set up against them. It is contrary to all Rule, that in any Controversie a Man should be Judge in his own Case; But he in effect is so who has power to make or unmake the Judge at pleasure; nor can this defect be well remedyed by granting their Commissions *quam diu se bene gesserint*. This will only oblige a greater care in the first choice, that they may be such as in their Principles will stand firm to the Kings Interest. The Honour and Income of a Judge to one that knows not how otherways to live, is a violent Provocative; it is a sort of lawful Bribery upon him to pursue his *Maker* and *Destroyer's* Commands tho against all the Rules of Justice and Equity; *self Preservation* is his Warrant, binds him to a Complyance, and makes him think it more allowable to break his Oath then to destroy his Honour and the Interest of a young Favourite who makes hay with great diligence whilst his Sun shines.

I have often wondered at the unjust Censures of some in saying that our late King so often and so notoriously broke his word and promises to his People in not Governing them according to *Law*. For Instances, they urge His Dispensing with Statutes, and his hard Usage of the Gentlemen in *Maudlin* Colledge, in both which I conceive he committed no breach of his Word or Promises if they be taken strictly and in a literal sense. This I think may easily be granted if it be consider'd, That the present Laws and Constitutions of *England* are such as do undoubtedly give the King a Power to make the Judge, and to the Judge a power to pronounce the Law. What he does judicially affirm is Law, and becomes from thenceforth the strongest President, the last Judgment being always esteem'd the surest and best Rule to go by: Now the King in both these transactions neither made or turned out any Judges but in such methods that former Judges had pronounc'd Lawful, nor did he do afterwards a-

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ny thing either in the caſe of *Maudlin* Colledge or the Diſpenſing Power, but with the Opinion and Concurrence of his Judges being the Method that our Eſtabliſhment and Laws in ſuch Caſes does direct.

There is alſo a great Cry againſt the late Judges, for giving their Opinions, and pronouncing Judgments contrary to the Laws of the Land, and no other Fate muſt be their reward, but that of *Treſilian* and *Belknap*. It does, I muſt confeſs, ſeem very reaſonable, that Men, who by their Honour, Oaths and Rewards, were bound indiſtinguiſhably to adminiſter Juſtice, ſhould ſmart for thoſe Delinquencies by which ſo many Hundreds have been ruin'd and undone. But in the firſt place, let me know how a Judge can give his Opinion contrary to Law, whoſe very Opinion judicially given, by the Conſtitutions of our Government, is Law it ſelf, and ſhall be deem'd a ſtronger Preſident in the point, than any other formerly given. And Secondly, If Judges muſt ſuffer for giving Sentence contrary to former Judgments, there is ſcarcely a *Term* paſſes even in the beſt of Times, but there are Offences committed by them of this kind. How ordinary is it for a Judge to give his Opinion in common Caſes contrary to his Brethren on the ſame Bench, and for one Court to reverſe the Judgments of another? And how full are the Law Books of Judgments and Opinions directly contrary to each other? The Law is not Mathematically demonſtrable, it is a Science which depends upon the Judgment and Opinion only of thoſe that are Learned therein, which we often find various and uncertain. Is not a Judge Sworn to act and determine according to his Opinion only, and who can pretend a power to direct and rectifie it, or to judge whether the Sentence given, was not according to his real judgment, ſince none can know his heart and thoughts but *God*: And ſuppoſe it could be prov'd by Demonſtration, that his Sentence or Opinion was not Law, this may proceed as well from his want of Knowledge as Honeſty, and what Law is there to puniſh a Judges ignorance or miſtake? 'Tis hard that Men ſhould be deem'd guilty of a Tranſgreſſion where there is no Law, or condemn'd to puniſhment where there is no Tranſgreſſion. No, no, Tho' our King was miſguided, and our Judges were corrupt, yet it is not at their doors, we muſt lay our Misfortunes but to the Weakneſs of our Government, which gives a *Law* to theſe Inconveniencies, and which puts the Juſtice of the Nation upon the Frailties of a ſingle Man in ſo Arbitrary a manner. Opportunity makes a Thief, and theſe Meſhes in the Govern-

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ment, tempts the Ministery thereof to slip through sometimes when a Bait lies on the other side to invite them to it. It is from this Root that all our late Miscarriages sprung; We suffer'd much, and yet it was all but little, if compar'd to that which was likely to befall us, had not Providence snatcht us by a Miracle from the Jaws of Misery; and as it has deliver'd us from the Evil Administration of *Law*, so in some things I wish it would rescue us from the *Law* it self, and so far change it, that for the future it may be no more subject to such Shams and Delusions, nor in a capacity thus to become an Accessory to its own Death.

It seems farther very incongruous, That where Government is made up of two different Interests, as here it is, the absolute power of Peace and War should be only in the King, whilst the power of maintaining it, continues in the People: For if the King should be led aside by a private Interest, and should refuse to make War in a time when perhaps the Safety and Honour of the Nation did wholly depend upon it; What a condition must the People then be in? Put the case, that before this our late but seasonable Deliverance, the King, in whom this Power did reside, should have open'd the Gates of the Kingdom, our Harbours and Strengths (which are to protect us from Forreign Invaders) to a *French*, or *Irish* Army; Who durst lift a hand to stop this inundation of Tyranny, without incurring the penalty of a Traytor: Nay they must farther be call'd Friends and Allies, even whilst they pillage our Houses, and hold their Knives to our Throats. This Branch of our Laws serves to *cover* the Landing of a Forreign Power, and so long to cherish and keep it warm, till like the Serpent in the Fable, it at last stings the improvident Benefactor to death.

Another thing which highly requires Your Regulation, is the Elections for Parliament. 'Tis a great Blemish to our Government, that such whose Place gives them the Title of *Founders* of our Laws, and *Preservers* of our Liberties;

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and whoſe Reputation for Principles of Honour, Honeſty & Prudence ſhould be beyond aſſault or cenſure, muſt yet be expos'd to a Neceſſity of doing ſuch things as are really mean and ſcandalous as well as expenſive, before they can get into a Capacity of doing their Country ſervice: for if ſuch things be not done, ſome Penſioner from Court bids higher, joſtles him out and gets thereby into a Power to put to Sale both the Laws and Liberties of his Country which he is willing to barter for the hopes of ſome Court Preferment, and the *Euge* of his great *Maſter*. In old times no perſon had an Electing Vote in the Shire, who had not a Freehold of 40 *s. per Ann.* but I could eaſily demonſtrate 40 *s.* then, to be Equivolent in value to 40 *l.* now, for by the diſcovery of the Weſtern World, Gold and Silver is to that degree increas'd. Now if the number of Electors were reduc'd to thoſe only having Freeholds of 40 *l. per An.* theſe laviſh Expences would certainly ceaſe, and the Electors, though fewer in number, would be leſs apt to be led aſide by ſuch low and indirect means. There are alſo great irregularities in the Corporations and Burroughs Electing as well as in the Electors: I can ſee no reaſon why *Cornwall* a poor and barren County ſhould return 43 Members for Parliament, and yet *Cheſhire* together with the City of *Cheſter* ſhould return in all but 3, and why old *Sarum* which has but 2 Houſes, and thoſe under the Commands of one Landlord, ſhould ſend 2 Repreſentatives to Parliament, whilſt many other Towns which might deſerve the Title and Priviledges of Cities ſend no Repreſentatives at all. I can ſcarcely think a Parliament thus Conſtituted can truly and fairly repreſent the People, the Majority and Richeſt of them being by ſuch inequallities excluded from an Electing Vote. The ſame inconvenience ſprings from the Conſtitutions of the Boroughs which Elect, not by vertue of their Wealth, Dignity, or Number of Inhabitants, but by the Burrough Houſes in which they live, Theſe only, (which perhaps are the moſt inconſiderable

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part of the Burrough) having in them the Electing power excluſive of the reſt. This Qualification makes ſuch Houſes ſell better to a purchaſer then any others in the Town, and it is cuſtomary for Gentlemen who are deſirous of a Seat in Parliament, to lay out their Mony in ſuch Bargains, and tho' it coſts them dear, yet if it be poſſible, they will be Landlords of a ſufficient number of theſe Borough Houſes, (in the purchaſe whereof ſome Friends Name is moſtly made uſe of in Truſt) that thereby they may Command an Election either for themſelves or their Aſſigns at pleaſure. What is this leſs than buying of Votes with Money? A Crime which has been always lookt upon with a ſevere brow, and yet Licens'd by this old Uſage. Nor can I diſcern why this Electing power ſhould be thus fixt to the Freehold in being, reſtrained to a ſmall and inconſiderable number of Houſes, as if Wood and Stone had a Rational faculty, and muſt be made uſe of to build and repair the Government.

The Methods of Electing in theſe Boroughs are various, Titles to Elect are alſo different, and very often dubious and uncertain. This neceſſitates double Elections, and countenances falſe Returns, which are often made ill uſe of; for the King having a power to nominate the Sheriff, and he to make a Return, it may happen that the true and rightful Members ſhall continue Petitioners only, whilſt ſuch as came in by unjuſt Returns, paſs an Act to give the King Money for the maintainance of a Standing Army. This Artifice was of much uſe in the laſt Parliament at *Weſtminſter*, and became ſo notorious from the great Number of Petitioners, that a Gentleman being ask'd, whether the Houſe of Commons ſate that day in the *Parliament*; No, (reply'd he) It ſtood in the *Lobby*.

It is Cuſtomary in the Borough of *Limmington* in *Hampſhire*, to Elect by the *Ballot*: The manner is to give to every Electing Burgeſs (their number being limitted and known) a different Colour'd *Ball* for every *Competitor*, each

Colour being reſpectively appropriated to the ſeveral Competitors: As ſuppoſe there ſhould be three Candidates, each Elector has three ſeveral Balls given him, which he ſo manages as to keep only that in his hand, which by its Colour belongs to the perſon he intends to chuſe; this being inclos'd in his hand, he puts it into a cloſe Box made for that purpoſe, leaving no poſſibility to any one to deteſt what colour'd *Ball* he put into it. Thus each having put in his *Ball* according to his Vote, the Balls of one Colour are ſeparated from thoſe of another colour, and ſo according to the Majority of Balls of one Colour, the Return is made. This Method I know to be of great advantage where it is made uſe of; It prevents Animoſities and Diſtaſt, and very much aſſiſts that freedom which ought to be in Elections. No man in this way need fear the diſobliging of his Landlord, Cuſtomer, or Benefactor; for it can by no means be diſcovered how he gave his Vote, if he will but keep his own counſel. If this or ſome ſuch Device were appointed to be made uſe of in every Borough over all the Kingdom, I am perſwaded it would abundantly anſwer expectation, in the many Advantages which would attend it: And perhaps it would be of equal Benefit in all other *Elections*, as well as in thoſe, for Members of Parliament, if the Government were ſo diſpos'd as to fill up all Vacancies, whether in Church or State, by the plurality of Votes appointed to elect: And I am apt to believe that ſucceeding Ages may reduce it into a Law, that Privy Councellors ſhall be choſen by the Lords, Judges by the Gentlemen at the Bar, Biſhops by their Dean and Chapters, Miniſters by their Pariſhioners, Fellows and Maſters of Colledges by the Graduates of the ſame Colledge, Sheriffs by the Gentry of the County, Officers of Truſt in the State and in the Army by the Parliament, the Parliament by Freeholders of 40 *l. per annum*, and all by the *Ballott*.

'Tis

'Tis much easier (I know) *to find Faults than to mend them*; and I could mention many other things of the same nature, the Redress whereof, I hope will be thought of in this great *Convention*, before They proceed to dispose of the Crown. 'Tis an easier matter for a People to make ten *Kings*, than to unmake *One*, and to deck a Crown with the highest Prerogatives, than to deprive it, when they are Confer'd, of the least of them. If the *Crown* be given again with the same Qualifications that Other *Heads* wore it, It will then be exalted above the Peoples reach, without some such assisting Miracle as was lately shewn in favour of them. *Now*, to reform its Redundancies is natural, easie, and prudent, the Government being escheated to the People by the Kings deserting it; But to offer at any such Attempts afterwards, will be both unkind and imprudent, and will signifie no more than the chatterings of a parcel of Magpies about an *Owl* in her *Majesty*.

Some Men have espous'd an odd and unwarrantable Notion, that the Kings Desertion of the Government amounts to a *Demise*, or Civil *Death*. If this be so, the next Heir ought immediately to be Proclaim'd, and must Inherit the *Crown* with the same inseperable Prerogatives that heretofore belong'd to it, and all Laws or Acts of Parliament made to limit and abridge them, (if Lawyers speak truth) are void and null. But if the *Departure* of the King amounts to such a desertion as dissolves the *Government*, then the Power must necessarily revert and vest in the People, who may Erect a new *One*, either according to the old *Modell*, if they like it so well, or any other that they like and approve of better.

Were such a mighty Thing to be determin'd by my single Vote, the *Government* should be *Monarchy*, and this *Monarchy* should be Absolute and Arbitrary, and the *Prince* should be my King. 'Tis He alone who is *The* Man in *Christendom* in respect of Courage and an innate Disposition to delight in the Happiness of his People, with whom I could freely

freely and securely intrust my *All*: But the *Honour* I have for Him, runs not to His *Posterity*, for as a good Man may notwithstanding, get a Profligate Son, so I should be loath to Repose such a Trust at a venture in the hands of any one whom I do not know. You have a great Work to do, and 'tis from Your Councels, that after Ages must date their Happiness or Misery, and it therefore Obliges Your most Serious Thoughts.

I hope, Sir, you will excuse the Liberties I have taken, in giving you so large a Diversion from better Notions of your own, which I know are of an higher flight and swifter wing than what I can pretend to: *Mine* I do not impose, but submit, as becomes

SIR,

Your Obliged humble Servant

N. T.

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